Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Deployment of Wireline Services Offering Advanced Telecommunications Capability	)	CC Docket No. 98-147
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
Applications for Consent to the Transfer of Control of Licenses in Section 214 Authorizations from Ameritech Corporation, Transferor to SBC Communications Inc., Transferee	)	CC Docket No. 98-141
Common Carrier Bureau and Office of Engineering and Technology Announced Public Forum on Competitive Access to Next Generation Remote Terminals	)	NSD-L-00-48 DA 00-891

COMMENTS OF NETWORK ACCESS SOLUTIONS CORPORATION ON PETITION FOR DECLARATORY RULING BY ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

by

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SUMMARY

Network Access Solutions Corporation ("NAS") makes seven recommendations in its Comments, as follows:

(1) The Commission should make clear that an ILEC's obligation under Section 251(c)(3) to provide dedicated transport on reasonable terms requires that the ILEC:

- (i) notify a CLEC of the amount of dedicated transport that is available between a central office ("CO") at which the CLEC applies for collocation and any other CO designated by the CLEC in its collocation application and (ii) provide this information to the CLEC at the same time that the ILEC informs the CLEC about whether sufficient space is available in the CO for which the application for collocation is filed; and

- permit a CLEC to order, at the same time it instructs the ILEC to begin constructing a given collocation arrangement, a minimum of one DS3 and one DS1 dedicated transport UNE between that collocation arrangement and any other CO designated by the CLEC, and require the ILEC to deliver this transport to the CLEC at the same time it delivers the subject collocation arrangement.

(2) Make clear that existing FCC policy prohibits an ILEC from requiring a CLEC to use the ILEC's Network Element Bona Fide Request procedure in order to obtain any UNE that the FCC has ruled that the CLEC already is entitled to obtain (such as optical transport) and that existing policy instead requires that the ILEC provide that UNE upon request unless the ILEC demonstrates to the public utility commission in the state where the UNE is requested that it is technically infeasible to do so.

(3) Require ILECs to provide, by a date certain, an on-line database containing the loop makeup data set forth in the ALTS petition.

(4) Utilize the agency's "best practices" policy in order to mandate specific provisioning intervals for loops, and prescribe business rules that ILECs must use in determining whether they meet the applicable intervals in situations where existing business rules are plainly unreasonable.

(5) Make clear that existing FCC policy prohibits ILECs from levying on CLECs a discrete charge to remove load coils and bridged taps from loops when the loops are used to provide DSL service and that existing policy instead requires that ILECs recover all costs of installing and removing this equipment in the regular monthly recurring charge for loops without regard to the service that CLECs provide over loops.

(6) Require ILECs immediately to file with state PUCs the terms under which they propose to provide the packet switching UNE.

(7) Facilitate assessment of monetary forfeitures for violating the FCC's UNE provisioning requirements by setting the base forfeiture amount under Rule 1.80 for a violation of any FCC UNE provisioning policy at $110,000 for a one-time violation and $1.1 million for a continuing violation.

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COMMENTS OF NETWORK ACCESS SOLUTIONS CORPORATION ON PETITION FOR DECLARATORY RULING BY ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The ALTS petition is timely since numerous unlawful ILEC UNE provisioning practices discussed in the petition are causing serious injury to CLECs and since the FCC has held that complaints about UNE provisioning practices deserve the agency's close scrutiny.[1] In these comments, Network Access Solutions ("NAS") shows how several unlawful UNE provisioning

1. See, e.g., Applic. by Bell Atl. N.Y. for Author. Under Section 271 to Provide In-Region InterLATA Service in the State of N.Y. at ¶ 330 (FCC 99-404, rel. Dec. 22, 1999) ("Given our statutory obligation to encourage deployment of advanced services and the critical importance of the provisioning of xDSL loops to the development of the advanced service marketplace, we emphasize our intention to examine this issue closely in the future.").

practices identified by ALTS are injuring CLECs that provide DSL service, and it proposes Commission action that can help remedy these abuses. NAS also discusses additional unlawful UNE provisioning practices not specifically identified by ALTS that require the Commission's attention.

DISCUSSION

I. The Commission Should Clarify that Several Specific UNE Provisioning Practices Are Unlawful, and It Should Prescribe the Remedies that NAS Proposes

A. Provisioning Dedicated Transport to New Collocation Arrangements

The first unlawful UNE provisioning practice identified by ALTS -- the ILECs' refusal to provide a CLEC with information about the availability of dedicated transport from a given central office ("CO") to another CO until after the CLEC's collocation arrangement in both COs is fully operational [2] -- plainly requires Commission attention given that CLECs need significant amounts of dedicated transport in order to provide DSL service. CLECs rely heavily on dedicated transport in providing DSL service since that service is a point-to-point offering and since the economics of DSL require that CLECs offer the service broadly throughout each metropolitan area they serve. For example, NAS collocates its equipment (DSLAMs, routers, and ATM equipment) in a substantial majority of all ILEC COs serving each metropolitan area where NAS provides DSL service. In fact, depending on the metropolitan area's total population, NAS typically has collocated its equipment more than 50 COs in a given metropolitan area. Moreover, the company designates several COs as traffic aggregation points in each metropolitan area it serves, and it requires dedicated transport to connect each CO in which it is collocated to one or more of these

2. See Pet. at 8-12.

aggregation points. Within the next two months alone, NAS will need dedicated transport to connect to one or more NAS local aggregation points about 250 new CO collocation arrangements that will be activated during this nine week period.

The ILECs' refusal to give CLECs information about the availability of dedicated transport between any two COs until after the collocation arrangement in both COs is operational not only delays CLECs' ability to initiate DSL service in new areas, it also poses extraordinary inefficiencies on the CLECs since it requires them to order and pay for a given collocation arrangement (usually more than $50,000) without knowing when they will be able to begin marketing DSL service to the end users whose loops are provisioned through the CO where that arrangement is located. NAS has been forced to wait more than two months after the collocation arrangement became operational before it could obtain dedicated transport at more than 60 COs, and it has had to wait six months after the collocation arrangement became operational before obtaining dedicated transport at six COs. If NAS had known at the time it filed applications for collocation in those COs that transport would not be available in a timely manner, it would have been able more efficiently to plan its network deployment.

In order to reduce the incidence of such delays and inefficiencies, the Commission should make clear that an ILEC's obligation under Section 251(c)(3) to provide dedicated transport on reasonable terms requires that it take both of the following steps:

- Notify a CLEC of the amount of dedicated transport that is available between a CO at which the CLEC applies for collocation and any other CO designated by the CLEC on its collocation application and provide this information at the same time that the ILEC, under its standard collocation application procedures, informs the CLEC about whether sufficient space is available in the CO for which the collocation application is filed to accommodate the CLEC's collocation request.

- Permit a CLEC to order, at the same time it instructs the ILEC under the ILEC's standard collocation application procedures to begin constructing a given collocation arrangement, a minimum of one DS3 and one DS1 dedicated transport UNE between that collocation arrangement and any other CO designated by the CLEC. Require the ILEC to deliver this transport to the CLEC at the same time it delivers the subject collocation arrangement.

B. Provisioning Dedicated Optical Transport

One unlawful dedicated transport provisioning practice not mentioned by ALTS in its petition also should be stopped. Although the FCC held nearly four years ago that "ILECs must provide . . . all technically feasible transmission capabilities, such as DS1, DS3, and Optical Carrier levels (e.g., OC-3/12/48/96)" that the CLEC requests,[3] Bell Atlantic has not provided optical transport in Virginia, Maryland, the District of Columbia, Delaware, Pennsylvania , New Jersey, and West Virginia and has indicated that it will not do so unless NAS applies for such transport under Bell Atlantic's expensive and time consuming Network Element Bona Fide Request ("BFR") procedure. The Commission should make plain that an ILEC may not lawfully require a CLEC to use the ILEC's BFR procedure in order to obtain a UNE that the CLEC already is entitled to obtain (such as optical transport) but instead must provide the UNE upon request unless it demonstrates to the public utility commission in the state where the UNE is requested that it is technically infeasible to do so.[4]

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3. Local Competition Order, First Report and Order, 11 FCC Rcd. 15499, 15718 at ¶440 (1996).

4. Requiring CLECs to use the BFR procedure to obtain optical transport would be unnecessarily expensive since it requires the BFR applicant to pay Bell Atlantic's costs to develop the UNE requested in the BFR application. It also would be unnecessarily time consuming since Bell Atlantic 's BFR process gives the company a minimum of 120 days after the BFR application is submitted before it must accept an application for the UNE (continued...)

C. Providing On-Line Availability of the Loop Makeup Data Described by ALTS

Since DSL competition is suffering as a result of the ILECs' failure to provide CLECs with on-line access to the loop makeup data set forth in the ALTS petition,[5] NAS recommends that the Commission require ILECs to provide, by a date certain, an on-line database containing this data. The ILECs' refusal to provide CLECs with this data on-line is plainly unlawful (i) since both the FCC and state PUCs have made clear that an ILEC's obligation under Section 251(c)(3) to provide UNEs on reasonable terms requires that the ILEC give a CLEC on-line access to the loop makeup data the CLEC needs to provide the type of DSL service that the CLEC has chosen to provide if the ILEC provides itself with on-line access to the loop makeup data that the ILEC needs to provide the type of DSL service it has chosen to provide,[6] and (ii) since ILECs provide themselves with on-line access to the loop makeup data they need for their own retail DSL offerings. Although a few ILECs provide CLECs with on-line access, for loops provisioned from some COs, to loop makeup data that the ILECs need in order to provide the retail DSL offering that ILECs provide, this limited information is wholly inadequate since CLECs universally offer more types of DSL service than ILECs and since the on-line loop makeup data provided by the ILECs is of only marginal value for

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4. (...continued)
requested in that application.

5. Pet. at 22-24.

6. UNE Remand Order at ¶¶ 426-31, 18 Comm. Reg. 888, 1003-04 (1999); Global Settlement Order at 113-14 (Pa. PUC Dkt. Nos. P-00991648 and P-00991649, adopted Aug. 26, 1999) (holding that the loop makeup data contained in Bell Atlantic's existing on-line database is insufficient to promote DSL competition since it "was developed to support the specific needs of BA-PA's more limited ADSL retail offering and does not include crucial loop information needed [by CLECs, who typically offer] other [types of] xDSL services").

the CLECs' DSL offerings. Moreover, while at least one ILEC -- Bell Atlantic -- has claimed for nearly two years that it is in the process of developing an on-line database that provides the loop makeup information requested by ALTS, in the absence of an unambiguous order to provide the database by a date certain ILECs almost certainly will complete the work necessary to provide the database to CLECs only when they are ready to market the types of DSL service for which the data that ALTS requests is necessary.

The order that NAS requests not only is called for by the Commission's existing precedent, it also would benefit CLECs and their customers and, in the long term, ILECs. CLECs would benefit because it would enable them to manage customer expectations more efficiently. Many customers would benefit from the ability to obtain service more rapidly than is possible today. ILECs also would win since they could provide the necessary data much more efficiently on-line than manually.

Recent experience with line sharing proves that mandating on-line provisioning of such data by a fixed deadline could stimulate ILECs to provide CLECs with on-line access to the loop makeup data they need far more quickly than otherwise will occur. In the line sharing case, the FCC ordered ILECs to put in place by June 6 of this year all terms and conditions necessary to provide the line sharing UNE. Faced with a concrete deadline, ILECs worked with CLECs to develop the terms under which they would provide the line sharing UNE, and all large ILECs began providing that UNE this month either on or a few days before the prescribed deadline. If the Commission had simply mandated that ILECs develop the terms under which this new UNE is provided without establishing a concrete deadline, it is a near certainty that the UNE would not yet be available.

D. Mandating Loop Provisioning Intervals and Associated Business Rules

NAS also agrees with ALTS about the desirability for specific FCC-mandated loop provisioning intervals for DSL-capable loops, and NAS urges the Commission to rely on its existing "best practices" policy as the basis for requiring that all ILECs comply with the three-day provisioning interval for stand-alone loops that ALTS says the Texas PUC requires Southwestern Bell to follow in that state.[7] Under the"best practices" policy, in the absence of proof to the contrary in a particular case the FCC assumes that each ILEC can reasonably comply with a requirement that has been found acceptable for any other ILEC.[8]

In mandating a three-day provisioning interval for stand-alone loops, the Commission should make clear that this interval applies to the provisioning of all stand-alone loops, including those from which bridged taps or load coils must be removed before provisioning. Unless the agency states explicitly that it expects all stand-alone loops to be provisioned within the prescribed interval, ILECs have no incentive to comply with the provisioning deadline for categories of loops whose provisioning by that deadline is even slightly inconvenient, and when challenged they may

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7. Pet. at 24-28.

8. See, e.g., First Advanced Services Order at ¶ 67-68, 14 FCC Rcd. 4761, 4797 (1999) (establishing a rebutable presumption that a CLEC may deploy in any state without harmful interference an advanced services technology that has been successfully deployed in any other state); UNE Remand Order, supra, at ¶ 227, 18 Comm. Reg. at 952-53 (establishing a rebutable presumption that it is technically feasible for ILECs to unbundle a loop in all states at a point where the PUC of one state has held unbundling to be technically feasible).

argue that the Commission's prescribed provisioning interval somehow implicitly exempted those categories of loops from the prescribed interval.[9]

Moreover, although a three-day provisioning interval for stand-alone loops is appropriate, the FCC should mandate a one-day provisioning interval for line shared loops. A shorter provisioning interval for the line shared loop UNE is warranted since the provisioning ILEC need not make a premises visit in order to install that UNE given that the line-shared UNE is provisioned by using a loop that already is operational.

Importantly, although mandating compliance with the loop provisioning intervals set forth above will be helpful, experience also proves that ILECs will employ absurd business rules for calculating their compliance with these provisioning intervals unless the FCC also prescribes business rules to be used in determining compliance with the required loop provisioning intervals. And while it may not be reasonable to expect the Commission to prescribe all business rules that ILECs must use in determining whether they meet the applicable interval, the agency should adopt business rules to govern situations where the ILECs' existing business rules are plainly unreasonable. For example, the Commission should make clear that an ILEC cannot lawfully excuse non-compliance with the applicable installation deadline on the ground that loop facilities are not available unless the ILEC notifies the CLEC of the absence of facilities at the time it issues a "firm order commitment" ("FOC") for that loop. At present, ILECs issue the FOC with almost no

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9. For example, while Bell Atlantic claims that it will provision certain loops in New York within fewer than five business days (N.Y.P.S.C. Tariff No. 916 at § 5.5.3), the company refuses to commit to <u>any</u> provisioning interval for loops that require the removal of a bridged tap or a load coil but states instead that <u>at least</u> an additional 15 business days can be expected to provision those loops).

knowledge about whether loop facilities are available for installation even though the FOC is supposed to represent the date on which the ILEC commits to install the loop. Instead, ILECs postpone making the determination about whether loop facilities are available until the date that the loop is supposed to be installed under the FOC, and if the ILEC determines on that date that facilities are not available it does not count the order as a missed installation within the prescribed interval. Since a business rule that gives ILECs an incentive to wait until the last possible moment before determining whether loop facilities are available needlessly delays the provisioning of DSL service to end users, the FCC should make clear that the absence of facilities will excuse an ILEC's failure to meet the prescribed installation deadline only if the ILEC determines that facilities are not available by no later than the date on which it issues the FOC for that loop.

E. Recovering the Cost of Removing Load Coils and Bridged Taps from Loops

ALTS also is correct about the need to clarify the circumstances under which it is lawful for ILECs to levy on CLECs a discrete charge to remove load coils and bridged taps from loops and about what constitutes a lawful charge for this purpose.[10] At present, even though load coils and bridged taps are installed and removed from ILEC loop plant on a daily basis for a host of different reasons ILECs levy a separate charge on CLECs to remove these devices from a loop when the CLEC orders the loop in order to provide DSL service but include their costs to install and remove these devices in the monthly recurring price of the loop when the CLEC orders the loop to provide a non-DSL service. Moreover, the separate charge that ILECs levy when the CLEC orders

10. Pet. at 29-31.

the loop to provide DSL service often is equal to or greater than the ILECs' own calculation of the TELRIC costs of constructing an entirely new loop from scratch.

The Commission should make clear that ILECs must recover all costs to install and remove load coils and bridged taps in the recurring price for loops regardless of the service that a CLEC intends to offer, and it can do this be clarifying its existing policy. In the UNE Remand Order, the Commission noted that although "networks built today normally should not require voice-transmission enhancing devices on loops of 18,000 feet or shorter [, such] . . . devices [nevertheless] are sometimes present on such loops, and the incumbent LEC may incur costs in removing them. Thus, under our rules, the incumbent should be able to charge for conditioning such loops."[11] Rather than constituting an invitation for ILECs to levy a surcharge to remove these facilities from a loop when the loop is used to provide DSL service, the Commission instead should clarify that it intended this statement to mean only that ILECs have a right to recover all loop costs, including costs to install and remove load coils and bridged taps from their loop plant, in the recurring charge they assess for the loop UNE.

Even if the Commission were to hold that ILECs have a right to recover the costs to remove bridged taps and load coils from loops used to provide DSL service through a discrete surcharge, it still should rule that ILECs have a legal obligation under the agency's TELRIC pricing policy to calculate that surcharge based on the cost the ILEC would incur assuming the same network architecture that it uses in calculating the monthly recurring charge for loops.[12] Rather than

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11. UNE Remand Order, supra, at ¶¶ 192-93, 18 Comm. Reg. at 944.

12. By its terms, Section 252(d) of the Act requires ILECs to calculate all UNE charges by using (continued...)

proceed in this fashion, many ILECs have calculated the monthly recurring loop charge based on a forward looking, all fiber network feeder architecture while calculating the coil/bridged tap surcharge based on an assumed all copper network architecture. If ILECs were to assume an all-feeder network architecture in calculating the coil/bridged tap surcharge, that surcharge would almost disappear since few if any bridged taps and load coils would exist in that architecture.

Even if it were appropriate for ILECs to levy a surcharge for load coil and bridged tap removal (which it is not as explained above), the Commission still should hold under its "best practices" policy that the surcharge levied by some ILECs is presumptively unlawful. As indicated above, the "best practices" policy permits the Commission to declare that a particular ILEC policy is presumptively unlawful if that policy deviates from the practice of other ILECs. Some ILECs charge far more than other ILECs to remove load coils and bridged taps. For example, while USWest charges substantially less than $100 to remove load coils and bridged taps, Bell Atlantic, GTE and BellSouth charge three to 20 times that much.[13] In fact, GTE charges 150 percent more to remove load coils from a loop in Florida than its own estimate of the cost to construct an entirely

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12. (...continued)
the TELRIC pricing principles that the FCC has adopted, and the FCC has made clear that this means ILECs must use the TELRIC principles to recover costs of removing and installing load coils and bridged taps. See, e.g., Order Approving Bell Atlantic/GTE Merger at ¶ 277, FCC 00-221 (rel. June 16, 2000).

13. See, e.g., USWest Communications Colo. P.U.C. 17 at § 10.3.A (charging $85 to remove the first bridged tap or load coil and $50 to remove each additional tap or coil); Bell Atlantic-Mass. DTE MA No. 17 § 2.5.3 (charging $250.60 to remove one bridged tap and $609.92 to remove more than one bridged tap, and charging $910.35 to remove load coils on loops under 21,000 feet in length); GTE Fla. Inc. Wholesale NRC Rate Summary (Revised) Direct Testimony of Dennis Trimble, Exh. DBT-2 at 1 (Fla. P.S.C. Dkt. No. 990649-TP, May 1, 2000) (charging $911.76 to remove one bridged tap and $1,274.26 to remove multiple bridged taps and charging $1,448.22 to remove load coils).

new loop ($1,448.22 vs. $960.20) in that state from scratch, and BellSouth's charge to remove a single load coil from a Florida loop is more than 92 percent of its estimate to construct an entirely new Florida loop($772.31 vs. $835.14).[14]

F. Requiring ILECs to Propose Terms for Providing the New Packet Switching UNE

While not mentioned in the ALTS petition, the Commission also should reaffirm that ILECs must immediately file with state PUCs the terms under which they propose to provide the packet switching UNE. In its UNE Remand Order, the Commission instructed ILECs to file the terms under which they propose to offer this UNE by no later than May 17, 2000. But to our knowledge not a single ILEC has done so even though the compliance deadline passed more than one month ago.

Equally disturbing, some ILECs have stated shamelessly that they will never offer the packet switching UNE unless regulators force them to do so. Bell Atlantic, for example, audaciously has informed the New York Public Service Commission that it has no obligation under Section 251(c)(3) of the Act to offer this UNE since its ILECs intend to transfer equipment that is necessary to provide the UNE to Bell Atlantic's advanced services affiliate. According to the Bell Atlantic, this transfer will relieve the company of the obligation to provide the packet switching UNE since Section 251(c)(3) of the Act states that "incumbent local exchange carriers" alone have a duty to provide UNEs and Bell Atlantic's advanced services affiliate is not an "incumbent local

14. Direct Testimony of Terry L. Murray at 8 (Fla. P.S.C. Dkt. No. 990649-TP, dated June 8, 2000).

exchange carrier."[15] In fact, Section 251(h) defines incumbent local exchange carrier not only as a long-time provider of local exchange service (such as the Bell Atlantic ILECs), but also as "a successor or assign" of any such company, and the FCC has held that an ILEC's advanced services affiliate is a successor or assign to the extent it receives from the ILEC a facility that is necessary to provide an unbundled network element.[16]

With equal chutzpah, Bell Atlantic has asserted that the UNE Remand Order also exempts it from the obligation to provide the packet switching UNE anywhere merely because the company intends to permit CLECs to collocate DSLAM equipment in or adjacent to some of Bell Atlantic's remote terminals.[17] In fact, FCC Rule 51.319(c) states that the decision about whether an ILEC must provide the packet switching UNE for the provision of DSL service must be made on an end user by end user basis and that the UNE must be offered to serve any end user location in which both of two circumstances exist: (i) all loops serving the location consist partially of copper wire and partially of fiber cable, and (ii) the ILEC collocates its DSLAMs at the remote terminal containing the fiber/copper loop interface serving that location while prohibiting the CLEC from doing so because of a lack of space or for some other reason. Even if Rule 51.319(c) were not clear (which it is), acquiescing to Bell Atlantic's request for an exemption from the obligation to provide the packet switching UNE in any situation if it permits collocation at some remote terminals would

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15. See Letter to Hon. J.A. Linsider from J.A. Post (N.Y.P.S.C. Case No. 98-C-1357, March 13, 2000).

16. See, e.g., Ameritech and SBC Communications Inc. at ¶ 365 n.682, FCC 99-279 (rel. Oct. 8, 1999).

17. See Letter to Hon. J.A. Linsider, supra.

frustrate the FCC's objective to facilitate competition in the provision of DSL service to all customers. Without access to the packet switching UNE to serve end users whose loops are provisioned from a remote terminal where collocation is not available, as much as 25 percent of the nation's population will be able to obtain DSL service solely from their ILEC since roughly 25 percent of all customer locations are served by loops provisioned through remote terminals.

II. The FCC Should Put Procedures In Place to Facilitate Assessment of Monetary Forfeitures for Violating the Agency's UNE Provisioning Requirements

ALTS's suggestion that the Commission state its intention to assess monetary forfeitures for violations of the agency's UNE provisioning requirements and establish a mechanism to facilitate such assessments also makes sense.[18] Section 1.80 of the Commission's Rules already sets forth the process by which monetary forfeitures may be levied. The Commission should announce in this proceeding that it intends to use this process to assess forfeitures for violation of its UNE provisioning requirements, and the agency should establish a base forfeiture of $110,000 for a one-time violation and $1,100,000 for a continuing violation of any such UNE provisioning policy. These are the maximum forfeiture amounts allowed by statute.[19] The public interest requires that the Commission announce its intention to impose the maximum statutory forfeiture for violating UNE provisioning policies since the agency has recognized that ILECs have an economic incentive

18. Pet. at 31-32.

19. 47 U.S.C. § 503.

sto violate these policies and since failure to comply with them jeopardizes competition in markets where ILECs have market power, including the DSL market.[20]

20. See, e.g., Order Approving Bell Atlantic/GTE Merger, supra, at ¶ 332-345 (mandating that Bell Atlantic and GTE make a "voluntary" payment to the U.S. Treasury of a specific amount upon failure to comply with certain merger conditions after finding that failure to include this requirement could leave the parties without a "strong incentive to comply" with the merger conditions and "impair the Commission's ability to protect the public interest"); see also, Bell Atlantic-New York, 15 FCC Rcd. 5413 (2000) (entering into a consent decree under which Bell Atlantic-New York agreed to pay, depending upon future events, between $3 million and $27 million to the U.S. Treasury in order to settle an investigation into possible violations by the company of one existing FCC UNE provisioning requirement).

CONCLUSION

The Commission can help halt the unlawful UNE provisioning practices by taking the actions described above.

Respectfully submitted,

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